

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAC A. FLEMING, GAIL A. MEISEL,
JOHN M. PESTA, and ERNEST L. TORSKE,

Plaintiffs,

Case No. 2:08-cv-11457

Honorable Gerald E. Rosen
Magistrate Virginia M. Morgan

v

BROTHERHOOD OF THE MAINTENANCE OF WAY
EMPLOYES DIVISION OF THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, and
BROTHERHOOD OF THE MAINTENANCE OF WAY
EMPLOYES DIVISION PENSION PLAN,

Defendants.

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JUDGMENT

1. Plaintiffs' Motion for Summary Judgment (Docket #47) is granted in part, with respect to Plaintiffs' claim under ERISA's anti-cutback provision, 29 U.S.C. § 1054(g), and is otherwise denied without prejudice.

2. Defendants' Motion for Summary Judgment (Docket #39) is denied.

3. Plaintiffs' monthly pension benefit and "months of service" credit are restored to their May 2007 levels, together with any and all cost-of-living or other benefit increases to which Plaintiffs are entitled, under Defendants' pension plan, from June 2007 to the present.

4. All pension benefits not paid to Plaintiffs since June 2007 as a result of Defendants' recalculation and reduction of Plaintiffs' monthly pension benefit, as well as all pension benefits that were, further, withheld from Plaintiffs' monthly pension benefit payments, shall be paid to Plaintiffs with six percent interest, per the plan, within ten days from the date of this judgment. The pension benefit amount each Plaintiff is to be paid is as follows:

John M. Pesta	\$7,489.74
Gail A. Meisel	\$9,121.84
Mac A. Fleming	\$6,119.14
Ernest L. Torske	\$9,270.37

5. Defendants are hereby enjoined from any future recalculation and/or reduction of Plaintiffs' pension benefits except as may be provided for in the pension plan, and consistent with applicable law.

6. Plaintiffs have 28 days from the date of this Judgment to file a petition for attorneys' fees and bill of costs pursuant to L.R. 54.

Dated: April 29, 2010

s/Gerald E. Rosen
Honorable Gerald E. Rosen
Chief Judge, United States District Court

The parties have stipulated and agreed to the foregoing contents of the Judgment. Defendants are not waiving any objections to, or the right to appeal from, the underlying rulings on the summary judgment motions.

/s/ David A. Rhem 4/29/10
David A. Rhem (P-38037) Date
Varnum
Attorneys for Plaintiffs

/s/ Richard J. Gianino 4/29/10
Richard J. Gianino (P-32933) Date
Plunkett Cooney
Attorney for Defendants